IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3694 of 1994
With
SPECIAL CIVIL APPLICATION No. 3695 of 1994
To
SPECIAL CIVIL APPLICATION No. 3698 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SURJIBHAI N VASAVA & 1 - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR SHAILESH C PARIKH for Petitioner(s) : 1 - 2.
MR AY KOGJE, AGP for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 22/11/2006

ORAL JUDGMENT

1. Shri Shailesh C. Parikh, learned counsel for the

petitioners. Shri A.Y. Kogje, leaned AGP for the respondent-State. As facts of all these petitions are similar, all these petitions are disposed of by this judgment.

2. Each of the petition has been filed by one petitioner and he has stated in the petition that the government is not taking an action in accordance with Section 73A of the Bombay Land Revenue Code, 1879 [for short “the Code”] in his case or in cases of people, details of whom are stated in the Schedule which is annexed as Annexure:A to each petitions, therefore, a direction be issued to the respondents to take immediate action in accordance with Section 73A, the notification of the Agriculture & Land Department No. LND-3961/41509-G, dated 4.4.61, Government Resolution, Revenue Department No.LND-3961/41509-G, dated 5.4.61 and the Circular dated 7.3.70 issued by the Collector, Bharuch in case of the petitioner no.1 and other tribals. In the petitions, it is also submitted that the office of the Chief Secretary had filed an affidavit in some other matter, wherein, it

was stated that as per the Bombay Govt. Gazette dated 4.2.50, Satbara taluka of Bharuch district has been declared to be a Scheduled Area and the notification issued by the Government of Gujarat dated 4.4.61 is applicable to Satbara taluka. Certain other statements made in the said affidavit were also quoted in the pleadings and para-12. Unfortunately, the said affidavit has not been filed.

3. In reply to the allegations made in each of the petition, the State Government has submitted that actions in accordance with Section 73A of the Code have been taken. In some of the cases, Competent Authority found that Section 73A was not applicable, in some of the cases applications of tribals were found to be misconceived, in some of the cases orders were passed, the said orders were set aside in appeal and the matters were remanded and after the remand, the matters were again decided in favour of the purchasers. The straight say of the State Government is that they have taken action in accordance with law.

4. Shri Parikh, learned counsel for the petitioners in each of the case submits that the action suggested by the government was not in accordance with law therefore all such actions be quashed and the State Government be directed to take action in accordance with Section 73A of the Code.

5. Each petitioner was simply praying that the government be asked to take an action in accordance with Section 73A and the State, in its reply said that the action in accordance with law has been taken. If the order passed by the government or its officers or the Competent Authority is not palatable to the petitioners, then, the correctness, validity and propriety of the orders were required to be challenged before the appropriate authority. The petitions have been founded on false allegations. The petitioners have suppressed material facts from this Court, the petitioners have not stated correct facts, they knew that actions on their applications have been taken and the authorities have found that they are not entitled to

resumption of possession. If all this was known to the petitioners as they were parties in the proceedings before the authorities, then, filing of such petitions is sheer abuse of process of law. Ordinarily, while dismissing the petitions, I could impose heavy exemplary costs, but taking into consideration that each of the petitioner is tribal and has come to this Court on being so advised, I dismiss the petitions. Rule is discharged in each of the petition. No costs. Interim relief, if any, stands vacated in each of the petition.

[R.S. GARG, J.]

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